

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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UNITED STATES OF AMERICA,

Plaintiff,

v.

MARK BRUMMITT,

Defendant.

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ORDER

04-cr-127-bbc

Defendant Mark Brummitt has written to ask the court to correct his presentence report, by deleting a charge of absconding from probation in 1990 in Minnesota. I construe the request as a motion and will deny it.

It is too late for defendant to seek an amendment of the presentence report. The time for doing so was before he was sentenced, when he had the opportunity to review the report in detail and note the old charge he now alleges was inaccurate. Even if defendant's motion were not untimely, it would have to be denied because defendant has not provided evidence sufficient to support his claim that he was never found guilty of absconding from probation. The only evidence he has provided is an unauthenticated copy of a document that appears to be a recommendation of a supervising agency for a warrant and a court order accepting

the recommendation. Assuming the document is correct, it lists the reasons for the recommendation for a warrant to be failure to comply with court-ordered obligations, failure to refrain from contact with minor children and failure to cooperate with and be truthful with probation agent. It does not list absconding, although it could be the basis for the assertion that defendant had failed to be truthful with his probation agent. In any event, the omission of any reference to absconding in the warrant does not mean either that defendant did not abscond or that his probationary term was not revoked for absconding.

Finally, the presentence report does not say that defendant's probation was revoked because he absconded. It says in ¶ 48 that his probation was revoked *after* he absconded from probation. Defendant has not shown that he did not abscond.

#### ORDER

Defendant Mark Brummitt's motion for correction of his presentence report to delete any reference to his having absconded from Minnesota in 1990 is DENIED.

Entered this 18th day of September, 2009.

BY THE COURT:  
/s/  
BARBARA B. CRABB  
District Judge